

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**Miami Division**

BRIGHTLINE TRAINS FLORIDA LLC,

Plaintiff,

v.

NATIONAL MEDIATION BOARD,

Defendant,

and

TRANSPORT WORKERS UNION OF  
AMERICA,

Intervenor.

Case No. 1:24-CV-24734-DPG

**BRIGHTLINE TRAINS FLORIDA LLC'S  
MOTION FOR CLARIFICATION**

Plaintiff Brightline Trains Florida LLC (“Brightline Trains”) respectfully moves for clarification regarding the status and scheduling of Transport Workers Union of America’s (“TWU’s”) counterclaim, *see* ECF No. 46, following the Court’s orders granting TWU’s motion to intervene and vacating the consolidation of the above-captioned case and *Transport Workers Union of Am., AFL-CIO v. Brightline Trains Florida, LLC*, No. 1:25-cv-20863 (S.D. Fla.). *See* ECF Nos. 44, 45.

**MEMORANDUM**

1. The Court held a telephonic status conference on March 28, 2025, to discuss scheduling and other procedural matters in the above-captioned case and *Transport Workers Union of Am., AFL-CIO v. Brightline Trains Florida, LLC*, No. 1:25-cv-20863 (S.D. Fla.), which at the time were consolidated. ECF No. 41.

2. On April 1, 2025, this Court granted TWU's motion to intervene in the above-captioned case. ECF No. 44.

3. On April 1, 2025, the Honorable Jose E. Martinez vacated the order consolidating the above-captioned case and *Transport Workers Union of Am.*, No. 1:25-cv-20863. ECF No. 45.

4. On April 2, 2025, Judge Martinez transferred *Transport Workers Union of Am.*, No. 1:25-cv-20863, back to the calendar of the Honorable Darrin P. Gayles for all further proceedings. ECF No. 13, *Transport Workers Union of Am.*, No. 1:25-cv-20863.

5. As a result, TWU currently is pursuing before this Court two identical causes of action against Brightline Florida for an alleged violation of the Railway Labor Act: (1) as a claim in *Transport Workers Union of Am.*, No. 1:25-cv-20863, and (2) as a counterclaim in the above-captioned proceeding, *see* ECF No. 46.

6. TWU's two causes of action are currently in different postures. With regard to TWU's complaint in *Transport Workers Union of Am.*, No. 1:25-cv-20863, Brightline Florida filed a motion to dismiss on March 25, 2025, and the Court issued a briefing schedule on that motion to dismiss. *See* ECF No. 39 (filed while the cases were consolidated); ECF No. 43. In the above-captioned proceeding, TWU filed its counterclaim today, April 2, 2025. *See* ECF No. 46. Brightline Florida intends to move to dismiss that counterclaim within 21 days of service thereof. *See* Fed. R. Civ. P. 12(a)(1)(B).

7. During the status conference, the Court directed the Parties to confer and submit a scheduling report in each of the two cases within ten days.

8. Brightline Florida requests clarification as to the status of TWU's two identical claims and the scheduling of same now that the two cases are no longer consolidated. Brightline Florida is concerned that the existence of these two identical claims will result in the unnecessary

duplication of motion practice and expenditure of judicial resources. *See Omega Psi Phi Fraternity, Inc. v. Edden*, No. 11-80465, 2012 WL 13134335, at \*1 (S.D. Fla. Mar. 23, 2012) (“There is no reason for two cases involving the same parties and the same claims to be pending in the same court simultaneously.”).

9. Brightline Florida respectfully submits that TWU’s claim against Brightline Florida for an alleged violation of the Railway Labor Act should proceed as a standalone cause of action in *Transport Workers Union of Am.*, No. 1:25-cv-20863, not as a counterclaim to Brightline Florida’s pending APA claim against the National Mediation Board in the above-captioned case. *See* ECF No. 34, Brightline Opp. at 4–7 (explaining why TWU’s counterclaim is improper in an APA case for judicial review of an agency record).

10. The Court’s clarification on the status and scheduling of TWU’s counterclaim and identical cause of action in *Transport Workers Union of Am.*, No. 1:25-cv-20863, will aid the parties in avoiding and resolving potential disagreements in the scheduling of the two cases.

### **CONCLUSION**

WHEREFORE, Brightline Florida respectfully request clarification on the status of TWU counterclaim and the Court’s expectations for the scheduling report in the above-captioned case.

### **CERTIFICATION OF COMPLIANCE WITH LOCAL RULE 7.1(a)(2)**

Pursuant to Local Rule 7.1(a)(2), I hereby certify that counsel for Brightline Florida conferred with counsel for all parties in a good faith effort to resolve the dispute over the status of TWU’s proposed counterclaim and how to structure the scheduling report in the above-captioned proceeding. All parties participated in a telephonic scheduling conference on Tuesday, April 1, 2025, at 3:30 p.m. ET, and the parties further communicated by email on April 1 and April 2,

2025. Despite these good faith efforts, Brightline Florida believes clarification from the Court is still necessary to aid the parties in preparing scheduling reports in the two cases.

Dated: April 2, 2025

Respectfully submitted,

/s/ Lawrence D. Silverman

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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on this 2nd day of April 2025, I electronically filed the foregoing document with the Clerk of Court using CM/ECF. I also certify that the foregoing document was served, by the Court's electronic filing system, to all counsel of record.

/s/ Lawrence D. Silverman  
Lawrence D. Silverman (Fla. Bar No. 7160)